HON'BLE THE CHIEF JUSTICE SRI G.S. SINGHVI
AND
HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

Writ Appeal No. 1031 of 2006

Between:

Sajjan Singh & others

... Appellants

And

Joint Collector-cum-Additional District Magistrate, Hyderabad & others

... Respondents

:: J U D G M E N T ::

Counsel for the appellants : Shri V. Venkata Ramana

Counsel for respondent Nos. 3 and 4: Shri D. Prakash Reddy, Senior Advocate assisted by Shri D. Jagan Mohan Reddy

August 02, 2007

Per G.S. Singhvi, CJ

This appeal is directed against order dated 13.7.2006 of the learned Single Judge whereby he rejected the appellant's prayer for quashing orders dated 31.3.2004 and 19.6.2006 passed by Revenue Divisional Officer-cum-Inams Tribunal, Hyderabad (respondent No.2) and Joint Collector-cum-Additional District Magistrate, Hyderabad (respondent No.1) respectively under the Andhra Pradesh (Telangana Area) Abolition of Inams Act, 1955 (for short, 'the Act').

The appellants filed an application under Section 5 of the Act for grant of Occupancy Rights Certificate (ORC) claiming themselves to

be Kabize-e-Khadim (tenants of the subject land) in respect of the land measuring Ac.13-26 gts. comprised in Survey Nos.174 to 187 (except Survey No.182) situated at Gudimalkapur Village of Asifnagar Mandal. In support of their claim, the appellants filed certified copies of pahanis and other documents. Respondent No.2 called for original pahanis and sent them to Forensic Science Laboratory for the opinion of the handwriting expert. The latter opined that the entries made in the pahanis were doubtful. After taking note of the same, respondent No.2 vide his order dated 31.3.2004 rejected the application of the appellants.

The appellants challenged the above mentioned order by filing an appeal, which was dismissed by respondent No.1 vide his order dated 19.6.2006.

During the pendency of the appeal preferred by the appellants against order dated 31.3.2004, respondent Nos.3 to 6 herein also filed an application for grant of ORC by claiming themselves as successors of the original inamdar. At that stage, the appellants filed Writ Petition No.18276 of 2004 for restraining respondent No.2 from adjudicating the claim of respondent Nos.3 to 6 till the adjudication of their appeal. While admitting the writ petition, this Court passed an interim order in WPMP No.23982 of 2004 and stayed all further proceedings relating to the application filed by respondent Nos.3 to 6.

The appellants challenged the rejection of their claim for grant of ORC in Writ Petition No.14230 of 2006. The learned Single Judge referred to the provisions of Section 35 (2)(d) of the Act, Rule 17 of the Andhra Pradesh (Telangana Area) Abolition of Inams Rules, 1975, Section 5 (2) of the Code of Civil Procedure and held that respondent No.2 did not commit any error by seeking expert opinion on the genuineness of the entries contained in the pahanis. The learned

Single Judge also rejected the appellant's plea that non-supply of the copy of the expert opinion has resulted in violation of the rules of natural justice and held that non-consideration of the oral evidence produced by them does not have the effect of vitiating the orders passed by respondent Nos.2 and 1.

Shri Vedula Venkata Ramana, learned counsel for the appellants reiterated the arguments advanced before the learned Single Judge and submitted that the orders impugned in the writ petition are liable to be quashed because the appellants did not get fair opportunity to represent their cause before respondent Nos.2 and 1. Learned counsel emphasized that the correctness of the entries recorded in the pahanis was doubted by respondent No.2 only on the basis of the report of the handwriting expert, copy of which was not supplied to the appellants, and argued that the Appellate Authority and the learned Single Judge should have nullified the rejection of their application on the ground of violation of the rules of natural justice. Shri Vedula Venkata Ramana submitted that the report of the handwriting expert constituted an important document adverse to the interest of the appellants and the same could not have been made basis for rejection of their application without supplying them a copy thereof and giving them an opportunity to represent their cause.

Shri D. Prakash Reddy, learned Senior Counsel appearing for respondent Nos.3 to 6 extensively referred to the orders passed by respondent Nos.2 and 1, the xerox copies of khasra pahanis and the extracts of Town Survey Registers to show that the claim of the appellants was based on fabricated records and argued that respondent Nos.2 and 1 did not commit any illegality by refusing to entertain the appellants' claim for grant of ORC. Shri Reddy pointed out that the land revenue payment receipts produced by the appellants

to substantiate their claim for ORC are fabricated and the same were rightly discarded by the concerned authorities. Shri Reddy further argued that the learned Single Judge did not commit any error by refusing to interfere with the concurrent findings of fact recorded by respondent Nos.2 and 1 about the genuineness of the entries contained in the pahanis.

We have given serious thought to the respective arguments. Though there appears considerable merit in the argument of Shri D. Prakash Reddy that the genuineness of the copies of the pahanis and land revenue payment receipts is doubtful inasmuch as the receipt appears to have been printed sometime in 1990's and the same could not have been used for issuing certified copies on 17.11.1983 in relation to the earlier years, we do not consider it proper to adjudicate on this vexed issue because respondent Nos.2 and 1 did not comprehensively consider the issue of genuineness of the documents produced by the appellants in support of their claim and we feel that it will be in the interest of justice to remit the matter to respondent No.1 for fresh adjudication of the appeal preferred by the appellants against order dated 31.3.2004 passed by respondent No.2.

We are adopting the aforementioned course because the grievance of the appellants about non-supply of copy of the report of handwriting expert has substance. Undisputedly, the opinion of the handwriting expert strongly weighed in the mind of respondent No.2 while rejecting the appellants' claim for grant of ORC. Therefore, it was necessary for respondent No.2 to supply copy of the report of handwriting expert to the appellants and give them an opportunity to represent their cause. The failure of the concerned officer to comply with this requirement has definitely resulted in infraction of the rules of natural justice and prejudiced the cause of the appellants.

In the result, the appeal is allowed. The orders impugned in the writ petition are quashed and the case is remanded to the Appellate Authority i.e. respondent No.1 with the direction to the parties to appear before him on 27.8.2007. On that day or immediately thereafter, respondent No.1 should supply copies of the report of handwriting expert to the parties, hear them or their representatives and pass appropriate order in accordance with law. This exercise must be completed within one month counted from 27.8.2007.

As a sequel to allowing the appeal, WAMP.Nos.2220 and 2221 of 2006 filed by the appellants for interim relief are disposed of as infructuous.

G.S. SINGHVI, CJ

August 02, 2007

C.V. NAGARJUNA REDDY, J

svs